



04-09-03

FORM 9-6

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Practitioner's Docket No. A31-2047 RE

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Aust, et al.  
Serial No.: 09/707,445  
Filed: January 29, 2003  
For: SURGICAL INSTRUMENT

Group No.: 3731  
Examiner: Michael H. Thaler

Assistant Commissioner for Patents  
Washington, D.C. 20231

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

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APR 15 2003

Applicant hereby appeals to the Board from the decision of the Primary Examiner, dated and mailed October 8, 2002, finally rejecting claims 1-7, 10 and 11.

The item(s) checked below are appropriate:

## 1. STATUS OF APPLICANT

This application is on behalf of

- ☐ other than a small entity.  
☒ a small entity.

A verified statement

- ☐ is attached.  
☒ was already filed on November 6, 2000

04/10/2003 YPOLITE1 00000101 200090 09707445  
01 FC:2401 160.00 OP  
02 FC:2253 5.00 CH 460.00 OP

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APR 14 2003  
TC 3700 MAIL ROOM

## CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8A)

I hereby certify that this correspondence is, on the date shown below, being:

## MAILING

☒ deposited with the United States Postal Service, with sufficient postage, as **Express Mail Label No. ET924151415US** in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231,

## FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office.

Jill Wolfe  
Signature

Date: April 8, 2003

Jill W. If  
(type or print name of person certifying)

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APR 15 2003

**2. FEE FOR FILING NOTICE OF APPEAL**

Pursuant to 37 C.F.R. 1.17(e), the fee for filing the Notice of Appeal is:

|                                     |                          |                        |  |
|-------------------------------------|--------------------------|------------------------|--|
| <input checked="" type="checkbox"/> | small entity             | \$160.00               |  |
| <input type="checkbox"/>            | other than small entity  | \$320.00               |  |
|                                     | Notice of Appeal fee due | <b><u>\$160.00</u></b> |  |

TECHNOLOGY CENTER R3700

**3. EXTENSION OF TERM**

*NOTE: The time periods set forth in 37 C.F.R. 1.191 are subject to the provision of § 1.136 for patent applications. 37 C.F.R. 1.191(d). (But see 37 C.F.R. 1.645 for extension of time in interference proceedings and 37 C.F.R. 1.55(c) for extension of time in reexamination proceedings).*

(complete (a) or (b), as applicable)

The proceedings herein are for a patent application and the provisions of 37 C.F.R.

1.136 apply.

(a) ☒ Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.117(a)-(d) for the total number of months checked below:

| Extension<br>(months)                            | Fee other than<br>small entity | Fee for<br>small entity |
|--|--------------------------------|-------------------------|
| <input type="checkbox"/> one month               | \$110.00                       | \$55.00                 |
| <input type="checkbox"/> two months              | \$400.00                       | \$200.00                |
| <input checked="" type="checkbox"/> three months | \$920.00                       | \$460.00                |
| <input type="checkbox"/> four months             | \$1440.00                      | \$720.00                |

**Fee \$620.00**

If an additional extension of time is required, please consider this a petition therefore.

(check and complete the next item, if applicable)

☐ An extension for 0 months has already been secured. The fee paid therefor of \$0.00 is deducted from the total fee due for the total months of extension now requested.

**Extension fee due with this request \$**

or

(b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**4. TOTAL FEE DUE**

The total fee due is:

Notice of Appeal fee **\$160.00**Extension fee (if any) **\$460.00****TOTAL FEE DUE \$620.00****5. FEE PAYMENT:**

- ☒ Attached is a check in the sum of **\$620.00**
- ☐ Charge Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_.  
A duplicate of this transmittal is attached.

**6. FEE DEFICIENCY**

*NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G. 31-33.*

- ☒ If any additional extension and/or fee is required,  
charge Account No.: 20-0090.
- ☐ If any additional fee for claims is required,  
charge Account No.: \_\_\_\_\_.

Reg. No.: 44,460

Tel. No.: (216)621-2234

  
SIGNATURE OF ATTORNEY

Robert N. Lipcsik  
(type or print name of attorney)

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